

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9301 of 1997

SPECIAL CIVIL APPLICATION NO.2051 OF 1998

with

Civil appln. No.2861/98

SPECIAL CIVIL APPLICATION NO.2653 OF 1998.

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? Yes

2. To be referred to the Reporter or not? Yes @@o  
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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No.

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?

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AGRICULTURAL PRODUCE MARKET COMMITTEE

Versus

STATE OF GUJARAT

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Appearance:

SPECIAL CIVIL APPLICATION NO.9301/97.

MR K.G.VAKHARIA WITH MR.TUSHAR MEHTA for Petitioners  
MR.S.N.SHELAT,ADDL.G.P. WITH MR.P.G.DESAI  
GOVERNMENT PLEADER for Respondent No. 1, 2, 3

SPECIAL CIVIL APPLICATION NO. 2051 OF 1998.

MR.HARIN RAVAL FOR PETITIONERS.  
MR.S.N.SHELAT,ADDL.A.G. & MR.P.G.DESAI  
GOVERNMENT PLEADER FOR RESPONDENTS NOS.1,2,3.

SPECIAL CIVIL APPLICATION NO. 2653/98.

MR.B.M.MANGUKIA FOR PETITIONER.  
MR.S.N.SHELAT,ADDL.A.G. 7 MR.P.G.DESAI,  
GOVERNMENT PLEADER FOR RESPONDENTS 1,2 AND 3.

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 30/04/98

C.A.V.JUDGMENT:

Rule. In the facts and circumstances of the case these petitions are taken up final hearing.

1. These petitions under Article 226 of the Constitution challenge the orders passed by the Director of Agriculture, Marketing and Rural Finance (hereinafter referred to as "the Director" ) postponing the elections to the Agricultural Produce Market Committees of Bavla, (District Ahmedabad), Dhanera, ( District Banaskantha ) and District Bhavnagar respectively and the apprehended action of appointment of administrator under the Gujarat Agricultural Produce Market Committees Act, 1963 (hereinafter referred to as "the Act" ). Since these petitions involve common questions of law and facts, the petitions are heard together and are being disposed of by this common judgment. The facts leading to the present petitions are as under:

2. Special Civil Application No. 9301 of 1997 is filed by the Agricultural produce Market Committee (hereinafter referred to as the APMC), Bavla, through its Chairman as petitioner no.1 and its Vice Chairman and one of its members. It is averred that the said APMC is duly constituted under Sections 10 and 11 of the Act and since the term of the said APMC is four years from the date of its first general meeting, the term of the APMC is upto 10-2-1998. The Director was required to hold the

elections and complete the election process before 10-2-1998. Accordingly the Director had issued election programme on 3-10-1997 and substantial part of the election process was over and voters lists were prepared. Only the stages of filing of nomination forms, actual polling and counting of votes are required to be completed. However, in the meanwhile, by his impugned order dated 2-12-1997 ( Annexure A) the Director postponed the election of APMC, Bavla on the ground that in view of the recent formation of the new Districts and Talukas upon division of the existing Districts and Talukas, the question of establishing new APMCs in the newly created talukas may have to be considered and that process may take some time. Hence the election to APMCs in Talukas which have been recently divided are postponed till the end of the calendar year 1998. The said notification dated 2-12-1997 is issued under rule 10(2) of the Agricultural Produce Market Committees Rules 1965 (hereinafter referred to as "the Rules" ).

The aforesaid impugned order is challenged on various grounds such as the election process having already commenced, could not have been stalled by the Director; secondly the impugned order is passed on the basis of the political pressure exerted by the opponents of the present members of the Market Committee and also on the ground that the market area for which the market committee is constituted is not necessarily coterminous with the revenue limit and therefore, change in the revenue limits of taluka does not necessarily require reconstitution of APMCs within the talukas. It is further submitted that even if the election could not have been held for whatever reason, it was incumbent upon respondent no.1 under Section 11(4)(aa) of the Act to extend the term of the outgoing market committee till the new elected committee assumed its office and that in the facts of the case it is not permissible for the respondents to appoint an administrator in exercise of powers under Section 11(5) of the Act. It is apprehended that on political consideration, the Government would appoint an administrator. The petitioners have, therefore, approached this Court for a writ of mandamus directing the respondents to complete the election process by completing the remaining stages of the election as per the election programme declared earlier and also for a writ of mandamus to direct the State Government to extend the term of the present market committee upto the date on which the newly elected committee holds its first meeting and assumes the office. A writ is also sought to restrain the State Government from appointing an administrator.

While issuing the notice on 30-12-1997, this Court granted ad-interim injunction restraining the Government from appointing an administrator and restraining the respondents from causing any interference with the members of the petitioner APMC functioning as such.

3. Special Civil Application No. 2051 of 1998 is filed by APMC, Dhanera, pointing out that the first meeting of the present Committee was held on 3-3-1994 for electing Chairman and Vice Chairman and hence the four year term would expire on 3-3-1998. In order to complete the election procedure before that date the Director had issued Notification dated 12-11-1997 for holding election to the APMC. However, on 2-12-1997 the Director issued an order postponing the election to the APMC, Dhanera till the end of the calendar year 1998 on the same grounds which were mentioned in the notice dated 2-12-1997 in the case of APMC, Bavla, mentioned above. In this petition also same ground of challenge are urged and same reliefs are prayed for. In this case similar ad-interim relief was granted by this Court on 18-3-1998.

However, the State of Gujarat and the Director have filed Civil Application No. 2861 of 1998 in this petition stating that by order dated 24-2-1998 the State Government had already appointed an administrator for the APMC, Dhanera, under Section 11(5)(a)(i) of the Act for a period not exceeding one year with effect from 3-3-1998. It was mentioned in the said order that in view of the formation of Dantiwada Taluka out of the erstwhile Dhanera taluka, establishment of another APMC may also be required to be considered for Dantiwada. It is further pointed out in the aforesaid Civil Application that pursuant to the aforesaid order of the State Government, the District Registrar, Co-operative Societies, Palanpur, has already taken over charge as administrator of the APMC, Dhanera on 18-3-1998.

Affidavit-in-reply has been filed on behalf of the petitioner APMC disputing many of the statements made in the Civil Application.

4. Special Civil Application No.2653 of 1998 is filed by an individual voter pointing out that the APMC, Bhavnagar was constituted in December 1980 but the elections are not held for the said APMC for a number of years and that since May 1995 the administrator is functioning. On 23-2-1998 the election programme was declared by the Director but on 27-3-1998 the Director

has cancelled the election programme on the ground that when the preliminary voters' list was being prepared, most of the people were busy with election of Lok Sabha and Vidhan Sabha and, therefore, representations were received for postponing the elections otherwise injustice was likely to be done to the members of the agriculturists constituency and also that some new areas were required to be added. Some of the Cooperative Societies were not included in the voters' list. The aforesaid order is challenged. The main grounds of challenge are similar to the grounds urged in the aforesaid two writ petitions. However, allegations are made about the election not being held to the APMC, Bhavnagar, for a number of years.

An affidavit-in-reply is filed on behalf of the respondent authorities denying the allegations.

5. At the hearing of the petitions Mr.Vakharia with Mr.Tushar Mehta for APMC, Bavla; Mr.P.M.Raval with Mr.Harin Raval for APMC Dhanera and Mr.B.M.Mangukia, for the petitioner in the matter relating to the APMC, Bhavnagar, have raised the following contentions:

- (1). Once the election process had started it was not open to the Director to cancel or postpone the election programme and in any view of the matter there were no justifiable grounds for cancelling the election.
- (2). Even if the election could be postponed and were required to be postponed, the State Government was bound to extend the term of the outgoing APMC under the provisions of Section 11(4) (aa) of the Act and the State Government cannot appoint an administrator under Section 11(5)(a)(i) of the Act as the appointment of an administrator would be contrary to the democratic principles. Strong reliance is placed on the decision of this Court in the case of *Abdulgani Abdulbhai Kureshi & Anr. Vs. State of Gujarat & anr.* 1992(1) GLR 503

6. On the other hand Mr.S.N.Shelat, learned Addl.Advocate General and Mr.P.G.Desai, learned Government Pleader have made the following submissions:

- (1). The power to postpone the election already fixed under rule 10(2) of the Rules, is already upheld by this Court in 1990(2) GLH 194. In view of the peculiar facts applicable to the three APMCs in question, the Director was justified in

postponing the elections.

(2). It is in the discretion of the Government to decide whether to extend the term of the outgoing APMC or to appoint an administrator and the members of the outgoing APMC have no right to continue in office beyond the stipulated period of four years. Reliance is placed on the decision of a Division Bench of this Court in Special Civil Application No. 8204 of 1990 and on the decision of the learned single Judge of this Court in the case of Moti Panchi Nagar Panchayat Vs. State of Gujarat and Ors, 1995(1) GLR 176.

7. Having heard the learned Counsel for the parties, this Court is of the view that there is no substance in the first contention urged on behalf of the petitioners that respondent no.2 did not have the power to postpone the elections. As already held by this Court in the case of Ashoksinh Gopalsinh Jadeja & anr. Vs. D.H.Brahmbhatt & anr. 1990(2) GLH 194, as per Section 21 of the Bombay General Clauses Act, 1905, Competent Authority can issue notification and/or order to add, amend, vary or rescind the same. These expressions are wide enough to include issuance of notification for postponing the election. Hence it has to be held that the Director had power to postpone the elections which had already commenced as per the programme earlier fixed under the provisions of Rule 10(2).

8. As far as the justification for postponing the election is concerned, as per the settled legal position, this Court while exercising the power of judicial review would not sit in appeal over the decision of the authority and the permissible grounds of interference with such administrative decisions are very limited. In the facts and circumstances of the case, therefore, prima facie it cannot be said that postponing of elections to the aforesaid APMCs was illegal. Any how, there is no point in pursuing this discussion any further because pursuant to the impugned orders, elections have already been postponed and thereafter the dates mentioned in the election programmes previously fixed have already been consigned to the past. Postponing of elections has therefore, become a fait accompli. However, the major controversy had centred around the question whether the Government was bound to extend the term of the outgoing APMC till the first meeting of the new APMC was held as contended by the petitioner or whether the Government has untrammelled power to appoint an administrator as soon as

the four year term of the elected APMC is over.

9. Before dealing with the rival contentions regarding the aforesaid controversy, it is necessary to refer to the relevant statutory provisions. Section 11 of the Act provides for the constitution of the market committee consisting of 17 members as under:

No.of  
members.

- (i). 8 agriculturists who shall be elected by  
members of managing committees of  
cooperative societies (other than  
cooperative marketing societies)  
dispensing agricultural credit in the  
market area;
- (ii). 4 members to be elected in the prescribed  
manner from amongst themselves by the  
traders holding general licenses;
- (iii). 2 representatives of the Co-operative  
marketing societies situated in the  
market area and holding general licences,  
to be elected from amongst the members  
(other than nominal associate or  
sympathizer members) of such societies by  
the members of the managing committee of  
such societies.
- (iv). 1 member to be nominated by the local  
authority other than the market  
committee) within whose jurisdiction the  
principal market yard is situated from  
amongst its councilors or, as the case  
may be, members who do not hold any  
general licence.
- (v). 2 members to be nominated by the State  
Government.

When a market committee is constituted for the first time all the members thereof are to be nominated by the State Government for a period of two years. Section 11(4) and

(5) of the Act read as under:

"11(4)(a). The term of the office of a market committee shall, save as otherwise provided in this Act, be four years from the date of its first general meeting.

(aa).The State Government may, by order published in the Official Gazette and for reasons recorded therein, extend the said term for a period not exceeding one year in the aggregate.

(b). Save as otherwise provided in this Act, the term of office of the members of the market committee shall be coextensive with the term of the market committee and also shall be deemed to extend to and expire with the day immediately before the date of the appointment of an Administrator under clause (a) of sub-section (5).

(5)(a). Where the term of office of a market committee has expired, the State Government shall, by order published in the official Gazette, direct that-

(i) such person as may be appointed by the State Government from time to time shall be the Administrator to manage the affairs of the market committee, during the period beginning with the date specified in the order and ending on the day immediately preceding the date of the first general meeting of the market committee as reconstituted on the expiry of the term of the market committee(hereinafter in this sub-section referred to as "the said period");

(ii) the market committee shall be reconstituted within such period not exceeding one year in the aggregate as may be specified in the order.

(b). During the said period, all powers, functions and duties of the market committee under this Act shall be exercised and performed by the Administrator.

(c). ... ..



(d). . . . ."

10. The learned Counsel for the petitioners submitted that when the statute itself empowers the State Government to exercise the power for granting extension of the APMC for a period of one year, it is not open to the State Government to appoint an administrator. It is further submitted that in any view of the matter the principles laid down by a Division Bench of this Court in the case of *Abdulgani Abdulbhai Kureshi and anr. State of Gujarat & Anr.* 1992(1) GLR 503 are applicable to the scheme under the APMC Act also. In that case the Division Bench was concerned with the provisions of Sections 6 and 7-A of the Bombay Provincial Municipal Corporations Act, the relevant provisions of which read as under:

"6. (1). Councillors elected at general elections under this Act shall, subject to the provisions thereof, hold office for a term of five years which may be extended by the State Government by notification in the Official Gazette, to a term not exceeding in the aggregate six years for reasons which shall be stated in the notification.

Provided that, before such notification is published in the State Government shall invite and consider objections, if any, from persons entitled to vote at an election under this Act.

(2). The term of office of such councillors shall be deemed to commence on the date of the first meeting called by the Commissioner under the provision of the rules.

(3). The term of office of the outgoing councillors shall be deemed to extend to and expire with the day immediately preceding the date of such meeting.

Sub-section (3) of Section 6 was substituted by Gujarat Act 18 of 1984 and the new sub-section (3) of section 6 was inserted as under:

"(3). The term of office of the outgoing Councillors shall be deemed to extend to and expire with the day immediately preceding the

date on which an administrator is appointed under clause (a) of Section 7A"

Then follows Sec.7A , introduced by Section 3 of Gujarat

Act 18 of 1984, which reads as under:

"7-A. Provision for appointment of Administrator after expiry of normal term of office of Councillors:

(1).where the term of office of the councillors has expired, the State Government shall by order published in the Official Gazette direct that :

(a).Such person as may be appointed by the State Government from time to time shall be the administrator to manage the affairs of the Corporations, during the period from the date specified in the order upto the day immediately preceding the date of the meeting referred to in sub-section (2) (referred to as 'the said period') in which the mayor is elected.

(b). General election for reconstitution of the Corporation shall be held within such period not exceeding two and half years in the aggregate as may be specified in the order.

(2). During the said period, all the powers and duties of the Municipal Authorities (except the Municipal Commissioner and the Transport Manager ) charged with carrying out the provisions of this Act and the Corporation under any other laws for the time being in force shall be exercised and performed by the Administrator.

(3).The Administrator may by an order in writing delegate any of the powers and duties to be exercised or performed by him under sub-section (2) to any officer for the time being serving under the Corporation.

(4).The Administrator shall receive such remuneration from the Municipal Fund as the State Government may from time to time by general or special order determine."

After analysing the scheme of the Act and examining various decisions, the Division Bench came to the following conclusion:

".....It becomes thereafter obvious on a conjoint reading of sections 6(1) and 7A that once election cannot be held before expiry of normal term of five years, and a contingency arises for the State to decide whether to extend the term or to follow the procedure of Section 7A in the first instance, the State must consider whether there is cogent reason to extend or whether there is any cogent reason not to extend the term and after that exercise is undertaken and a decision is rendered in this connection that State can fall back upon, in the last report and as a last alternative, Sec.7A. ..."

In paragraph 24 of the decision the Division Bench also gave a few examples of cases where there would be a valid reason for non-extension of the outgoing councillors when election may not be held within time.

It is submitted that none of those illustrations cover any of the first two petitions and, therefore, the State Government was bound to grant extension to the outgoing APMCs.

11. On the other hand learned Addl. Advocate General Mr. Shalat submitted that from the very fact that the statute requires reasons to be recorded for granting extension and not for not granting extension, it implies that non-extension of an outgoing APMC and appointment of the administrator should be held to be a rule and grant of extension should be held to be an exception. It is submitted that the Division Bench in the case of A.A. Kureshi (supra) did not consider the aforesaid vital aspect and therefore, that decision requires reconsideration. It is further submitted that in any view of the matter the principles laid down in the said decision have been diluted in the subsequent decisions.

12. Having given anxious and thoughtful consideration to the aforesaid rival submissions, this Court is not in a position to agree with the learned Additional Advocate General that the decision of the Division Bench in the case of A.A. Kureshi (supra) requires reconsideration or that the principles laid down therein are watered down by the subsequent decisions of this Court. It is true that Section 6(1) of the Bombay Provincial Municipal

Corporations Act required the State Government to record reasons for granting extension of the outgoing councillors of a Municipal Corporation and not for appointment of an administrator. However, a closer scrutiny of the scheme of the BPMC Act reveals that before publishing any notification for granting extension to the outgoing councillors, the State Government has to invite and consider objections from persons entitled to vote as per the proviso to section 6(1) of the Act. It is thus clear that the legislature gave paramount importance to the objections from the persons entitled to vote at the election to the Municipal Corporation and extension of term of the outgoing councillors could be refused by the State Government on the ground that the persons entitled to vote have raised justifiable objections against postponement of elections and/or also against extension of term of the Councillors. The thrust of the provisions of Section 6 of the BPMC Act, therefore, is not to postpone the elections which would enable the Government to extend the term of the outgoing councillors and, therefore, if the State Government decides to grant extension, the State Government must state the reasons in the notification which would really mean reasons for not holding elections before completion of the normal five year term of the Municipality and reasons for continuing the term of outgoing Councillors. The conclusion of the Division Bench that the provision giving an authority to the State Government to appoint an administrator can be resorted to as a second alternative only when the first alternative of granting extension to the outgoing councillors is not to be resorted to is very much consistent with the democratic principles on which the local self bodies like the Municipal Corporation are established. There is no reason why the same principle should not be applied to the APMCs which are also designated as local authority and which by and large consist of elected members as is clear from the constitution of the APMCs under Section 11 of the Act.

The Division Bench also observed in the case of A.A.Kureshi (supra) that there may be valid reasons for not granting extension. For instance, if the councillors have misconducted themselves and there may be existing circumstances analogous to those enumerated by Section 452A of the BPMC Act, the Corporation could have been superseded even during its normal five years term. If such circumstances exist at the end of the term, it would be a legitimate ground for the State to refuse extension to such councillors. Similarly elected body may not be available any further like wholesale resignations of all the councillors or sudden death of all of them by natural

calamity, etc.; it may also not be possible to allow elected body to continue due to external aggression like war or internal disturbances like grave law and order situation making it impossible for the elected body to continue or the elected body may not be able to function due to natural calamities like earth quake confined to a given area. Those examples are only narrated as illustrative and not as exhaustive.

13. As far as the contention of Mr.Shelat that the principles laid down in A.A.Kureshi's case (supra ) are watered down by the subsequent decisions of the Division Bench, it is not possible to accept the said contention because in the subsequent decisions referred to above this Court was concerned with the provisions of Article 243 E of the Constitution providing that " Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer" and therefore, there cannot be any statutory provision extending term of the panchayat beyond five years. It is rightly held that the constitutional provisions are sovereign and supreme and all statutes must be read in conformity with the constitution. After the Constitution (Seventy-Third) Amendment Act,1973 any statutory provision providing for extension of the term of a local authority beyond the stipulated term of five years has to be held to be unconstitutional and, therefore, the principles laid down by the Division Bench in the case of A.A.Kureshi will continue to apply where there is no such constitutional bar.

14. The learned Addl. Advocate General of course contended that the very fact that the Constitution has imposed such a bar in the case of local bodies like panchayat/municipality/municipal Corporation, this Court should apply the same principle to the APMCs under the Act because the philosophy embodied in the Constitution must be placed on the highest pedestal and the reasons culled out by the Division Bench in the case of A.A.Kureshi (supra) must be held to be inconsistent with the aforesaid philosophy embodied in the Constitution.

It is not possible to accept this argument because Article 243-E while providing that every panchayat shall continue for five years and no longer also provides that "an election to constitute a panchayat shall be completed before the expiry of its duration". Thus, when the Constitution itself has provided in the same Article that the term of the panchayat shall be five years and no longer and that the election to constitute

the panchayat shall be completed before the expiry of five years duration, the Constitution itself embodies the democratic principle that the local authority should be governed by the elected members. Similar provisions are to be found in respect of municipalities and municipal corporations in Article 243-U of the Constitution.

It is equally true that the Division Bench which decided Special Civil Application No.8204 of 1990 and allied matters on October 18/20, 1993 observed that the provisions for appointment of administrator after duration of the municipality cannot be treated as inconsistent with the basic feature of the self-government.

Those observations are, however, not inconsistent with the principles laid down by the Division Bench in the case of A.A.Kureshi (supra) because even in that case it is not held that the appointment of administrator was inconsistent with the basic feature of the self Government. In the case of A.A.Kureshi, the Division Bench was concerned with the question as to which out of the two alternatives - one extension of outgoing body and the other appointment of an administrator- should be given priority. In that case the Division Bench held that the Government must consider the alternative of granting extension to an elected body first and if there are valid reasons for not granting such extension it is open to the Government to resort to the provision of appointing administrator. It therefore, cannot be said that the principles laid down in the case of A.A.Kureshi have been diluted in the decision in Special Civil Application No.8204 of 1993. If controversy arises in a case where the elections to a body are postponed beyond its stipulated duration and when there is no constitutional bar, unlike in Article 243-E and 243-U of the Constitution, and when the statute itself gives the Government two alternatives, the principles laid down by the Division Bench in the case of A.A.Kureshi would continue to apply.

15. This Court would however like to make some reservation in so far as the observations made by the Division Bench in para 18 of the judgment in the the case of A.A.Kureshi are concerned. The consequences flowing from the appointment of an administrator are bound to be not only different but at a subsequent stage as compared to the conditions precedent for appointment of an Administrator under Section 7-A of the BPMC Act. But in the facts and circumstances of the present case, we are not concerned with that controversy and, therefore, no

further discussion is called for as regards the principle laid down by the Division Bench in paragraph 18 of the judgment in the case of A.,A.Kureshi. Subject to the aforesaid reservation, this Court respectfully agrees with the principles laid down by the Division Bench in the case of A.A.Kureshi (supra) and sees no reason for referring the matter to a larger bench.

16. In the present three petitions, there is no pleading on behalf of the State Government or any material produced on the record to show why the Government has not considered the question of granting extension to the outgoing APMCs when the elections are postponed; may be in Special Civil Application No.9301 of 1997, the petitioners had approached this Court before the expiry of its normal four year term and this Court had granted ad-interim injunction restraining the respondents from appointing an administrator and therefore, the State government was not in a position to consider the question. Ordinarily, therefore, this Court would have been required to direct the Government to consider whether the extension should be granted to the outgoing APMC under Section 11(4)(aa) of the Act or whether administrator should be appointed under Section 11(5) of the Act. The Court, however, does not propose to issue any such direction firstly in view of the fact that on behalf of the respondents it has been stated that the Director has agreed to issue notification for holding elections to Bavla, Dhanera and Bhavnagar APMCs in the near future and secondly, the learned Counsel for the petitioners have also rightly placed reliance on the order dated 12-3-1998 of this Court in Special Civil Application No. 8943 of 1997, wherein accepting the contention of Mr.Yatin Oza appearing for APMC, Dahod, this Court had directed the respondents to issue election notification by 15-5-1998 and then to complete the entire election process by 31-7-1998 and the ad interim relief granted earlier during pendency of that petition i.e. ad interim injunction against appointment of administrator was ordered to continue till the elections are held and the newly elected committee takes over, unless in the meantime, any action is required to be taken by the Government under the provisions of the Act on account of default or misconduct committed by the APMC. There is no reason why the same directions should not be issued in the present petitions.

17. It is accordingly directed that the respondents shall issue election notifications for APMC, Bavla, APMC, Dhanera and APMC, Bhavnagar latest by 20-5-1998 and thereafter complete the entire election process as per

the provisions of the Act and Rules by 31-7-1998.

18. Notifications dated 2-12-1997 in the cases of APMC, Bavla and APMC Dhanera merely postponed the elections. It must, therefore, be directed that the respondents shall commence the election process from the stage where it had stopped pursuant to the impugned notifications dated 2-12-1997 issued by the Director.

However, so far as the APMC, Bhavnagar is concerned, representations were received by the Government about inadequate time for preparation of preliminary voters' list and hence the Director shall consider the said aspect and decide whether for the APMC, Bhavnagar the election process should commence from the stage at which they were stopped pursuant to the impugned notification dated 27-3-1998 and appropriate decision shall be taken by the Director in accordance with law on or before 20-5-1998.

19. In Special Civil Application 9301 of 1997 and Special Civil Application No. 2051 of 1998 it is further directed that the ad interim relief granted during the pendency of the petitions shall continue and no administrator shall be appointed till the elections are held and the newly elected committees take over, unless in the meantime, any action is required to be taken by the Government under the provisions of the Act on account of any default or misconduct committed or abuse of its power by the APMC. The impugned order dated 24.2.1998 appointing the administrator for APMC, Dhanera is quashed and set aside. Civil Application No. 2861 of 1998 is dismissed in view of the above directions and order.

20. The petitions are accordingly allowed and Rule in each petition is made absolute to the aforesaid extent with no order as to costs. Writ to be sent down to the Director of Agricultural Marketing and Rural Finance forthwith.

...

Sharma